

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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RAFAEL SANCHEZ MARTINO,

Plaintiff,

v.

9:16-CV-0139  
(GTS/DEP)

CRAIG DEMMON, Sergeant, Bare Hill Corr. Fac.;  
DAVID HUGHES, Corr. Officer, Bare Hill Corr. Fac.;  
GARY LaBARGE, Corr. Officer, Bare Hill Corr. Fac.;  
SCOTT HOUGH, Corr. Officer, Bare Hill Corr. Fac.;  
and TERRENCE WHITE, Lieutenant and Sr. Policy  
Maker, Bare Hill Corr. Fac.,

Defendants.

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APPEARANCES:

OF COUNSEL:

RAFAEL SANCHEZMARTINO, 12-A-4609  
Plaintiff, *Pro Se*  
Bare Hill Correctional Facility  
Caller Box 20  
Malone, New York 12953

HON. ERIC T. SCHNEIDERMAN  
Attorney General for the State of New York  
Counsel for Defendants  
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Syracuse, New York 13204

TIMOTHY P. MULVEY, ESQ.  
Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this *pro se* prisoner civil rights action filed by Rafael Sanchez Martino (“Plaintiff”) against the five above-captioned employees of the New York State Department of Corrections (“Defendants”) of Bare Hill Correctional Facility in Malone, New York are (1) Defendants’ motion for summary judgment seeking dismissal of Plaintiff’s

Complaint for failure to exhaust administrative remedies, and (2) United States Magistrate Judge David E. Peebles' Report-Recommendation recommending that Defendants' motion be granted and Plaintiff's Complaint be dismissed. (Dkt. Nos. 11, 17.) None of the parties have filed objections to the Report-Recommendation and the deadline in which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing the relevant papers herein, including Magistrate Judge Peebles' thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation: Magistrate Judge Peebles employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts.<sup>1</sup> As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein; Defendants' motion is granted; and Plaintiff's Complaint is dismissed.

**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Peebles' Report-Recommendation (Dkt. No. 17) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

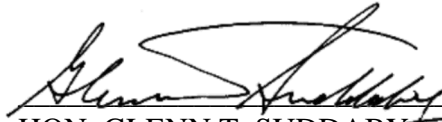
**ORDERED** that Defendants' motion for summary judgment (Dkt. No. 11) is **GRANTED**; and it is further

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<sup>1</sup> When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear-error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear-error review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at \*1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

**ORDERED** that Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED** in its entirety and the Clerk of the Court shall enter Judgment for Defendants and close this action.

Dated: March 22, 2017  
Syracuse, New York

  
HON. GLENN T. SUDDABY  
Chief United States District Judge